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JAN 18 2006

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In re Application of : DECISION ON RENEWED
Kevin Satterfield et al. : PETITION TO
Application No. 09/516,428 : WITHDRAW THE
Filed: March 1, 2000 : HOLDING OF
: ABANDONMENT

For: INTERACTIVE WAGERING SYSTEM WITH CRITERIA WAGERING

This is a decision on applicant's renewed petition to withdraw the holding of abandonment, filed in the United States Patent and Trademark Office (USPTO) on April 20, 2005.

The petition is **GRANTED**.

A review of the file record reveals that the application became abandoned for failure to respond to the Office action mailed to applicant on June 15, 2004. A Notice of Abandonment was mailed on December 30, 2004.

Applicant's petition indicates that the Office action was never received.

There is a strong presumption that the Office communication, properly addressed and delivered to the United States Postal Services, was in fact delivered to the addressee. An allegation that the Office communication was not received must be overcome by a showing that it was not received.

The showing required to establish non-receipt of an Office communication must include all of the following requirements:

- (1) A statement from the practitioner stating that the Office communication was not received by the practitioner;

- (2) A statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and
- (3) A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The docket records indicated above must include a copy of the list of all responses in the practitioner's office with the due date of September 25, 2004. See Notice entitled "Withdrawing the Holding of Abandonment When Office Actions Are Not Received," 1156 O.G.53 (November 16, 1993).

Applicant's petition provides a copy of the docket record showing all responses due by practitioner's office around the date of September 15, 2004. This evidence is acceptable proof of non-receipt as provided by 1156 OG 53.

The application is being forwarded to the Supervisory Legal Instruments Examiner with instructions to withdraw the abandonment, return the application to pending status and to redate and remail the Office Action based on the reasoning in the case of *Delgar v. Schuyler*, 172 USPQ 513.



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RAR/jjs: 6/9/05